

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Federal Communications Commission)	
Invites Comment on LightSquared)	IB Docket No. 12-340
Request to Modify its ATC Authorization)	
)	
LightSquared Subsidiary LLC)	File No. SAT-MOD-20120928-00160
Request for Modification of its)	File No. SAT-MOD-20120928-00161
Ancillary Terrestrial Component Authority)	File No. SES-MOD-20121001-00872

REPLY COMMENTS OF THE COALITION TO SAVE OUR GPS

The Coalition to Save Our GPS, along with its members Trimble Navigation Limited and Garmin International, Inc. (collectively referred to herein as the “Coalition”), pursuant to the Public Notice issued by the Commission on November 16, 2012,^{1/} submits these reply comments in response to the comments filed by LightSquared Subsidiary LLC (“LightSquared”) in the above-referenced application for modification (“Modification Application”) proceeding.^{2/}

I. INTRODUCTION

As explained in its initial comments, the Coalition fully supports the Commission’s goal to make more spectrum available for wireless broadband services.^{3/} The Coalition, however, cautioned that Commission action to convert spectrum for terrestrial operations should not

^{1/} See *Federal Communications Commission Invites Comment on LightSquared Request to Modify its ATC Authorization*, Public Notice, DA 12-1863 (rel. Nov. 16, 2012).

^{2/} See Reply Comments of LightSquared, IB Docket No. 12-340, *et al.* (filed Jan. 4, 2013) (“LightSquared Comments”); Modification Application of LightSquared Subsidiary LLC, IBFS File Nos. SAT-MOD-20120928-00160, SAT-MOD-20120928-00161, SES-MOD-20121001-00872 (filed Sept. 28, 2012 and Oct. 1, 2012) (“Modification Application”). The FCC’s Public Notice of November 16, 2012 characterized the pleadings due on January 4 as “Oppositions.” LightSquared’s document was styled as “Reply Comments” and to avoid confusion are referred to here as “comments.” The Public Notice states that “Replies” are due on January 11.

^{3/} See Comments of the Coalition to Save Our GPS, IB Docket No. 12-340 and RM-11683, *et al.* (filed Dec. 17, 2012) (“Coalition Comments”).

jeopardize critical services such as GPS. Accordingly, the Coalition asked the Commission to refrain from taking any action on LightSquared's Modification Application until the issues regarding interference to GPS receivers from LightSquared's proposed terrestrial operations are resolved.

In particular, the Coalition explained that substantial testing has demonstrated that LightSquared's terrestrial operations in the upper 10 megahertz of the L-Band at 1545-1555 MHz ("Upper L-Band Downlink Spectrum") will cause harmful interference to GPS receivers that cannot be mitigated and that interference issues from terrestrial operations in the lower 10 megahertz of the L-Band at 1526-1536 MHz ("Lower L-Band Downlink Spectrum") to GPS receivers have not yet been resolved (these bands together are herein referred to as "L-Band Downlink Spectrum").^{4/} In addition, the Coalition noted that the Modification Application's proposal to use the 1627.5-1637 MHz and the 1646.7-1656.7 MHz bands (the "Uplink Bands") in combination with the 1670-1680 MHz band to provide LightSquared's terrestrial services warrants additional evaluation to determine whether there will be harmful interference to GPS.^{5/} In light of these concerns, the Coalition suggested that the Commission modify LightSquared's license to delete terrestrial use of the Upper L-Band Downlink Spectrum and separately clarify that, while the Commission considers the matters raised by LightSquared's Modification Application and petitions for rulemaking, LightSquared has no authority to provide terrestrial wireless services using its Lower L-Band Downlink Spectrum or Uplink Bands spectrum.^{6/}

^{4/} See *id.* at 10-12.

^{5/} See *id.* at 12-14.

^{6/} See *id.* at 18-19.

LightSquared's comments urge the Commission to grant its Modification Application on an "expedited basis."^{7/} It asserts that numerous public interest benefits would flow from grant of the Modification Application and that "no party otherwise has attempted to demonstrate that grant of the Modification Applications would be *prima facie* inconsistent with the public interest."^{8/} While LightSquared acknowledges that some parties raised concerns, it contends that substantial evidence suggests that its modified operations would not result in interference to other spectrum users;^{9/} the Commission has broad statutory authority to grant its license Modification Application and provide it with "replacement" spectrum without an auction;^{10/} and that the Commission should focus on the "comprehensive solution" offered by the Modification Application rather than take the actions proposed in the *Conditional Waiver Order* as contemplated in the International Bureau's February 2012 Public Notice.^{11/}

II. IT IS NOT YET APPROPRIATE FOR THE FCC TO GRANT THE MODIFICATION APPLICATION

A. The January 2011 *Conditional Waiver Order* Found that LightSquared was Required to Demonstrate Lack of Interference in Order to Proceed.

Although LightSquared urges the Commission to grant the Modification Application, doing so now would be inconsistent with the *Conditional Waiver Order*.^{12/} In the *Conditional Waiver Order*, the International Bureau made clear that because of the potential of harmful

^{7/} See LightSquared Comments at 2.

^{8/} *Id.* at 1-3, 9.

^{9/} See *id.* at 10-19.

^{10/} See *id.* at 23-27.

^{11/} See *id.* at 30; see also *LightSquared Subsidiary LLC Request for Modification of its Authority for an Ancillary Terrestrial Component*, Order and Authorization, 26 FCC Rcd 566 (2011) ("*Conditional Waiver Order*"); *International Bureau Invites Comments on NTIA Letter Regarding LightSquared Conditional Waiver*, Public Notice, IB Docket No. 11-109, DA 12-214 (rel. Feb. 15, 2012) ("February 2012 Public Notice").

^{12/} See LightSquared Comments at 27 (urging the Commission to grant the Modification Application and disregard "extraneous matters" such as issues presented by the February 2012 Public Notice).

interference to GPS, LightSquared could not commence operations using any of its licensed spectrum to provide the type of terrestrial services envisioned by the new business plan reflected in its November 2010 application for modification.^{13/} The *Conditional Waiver Order* did not distinguish between the Uplink Bands, the Upper L-Band Downlink Spectrum or the Lower L-Band Downlink Spectrum. Indeed, LightSquared acknowledges that it is prohibited from initiating terrestrial operations by referring to the FCC's recent *Milestone Order* which tolled LightSquared's obligation to construct terrestrial facilities.^{14/} There, the Commission suggested that it did not need to address the February 2012 Public Notice which proposed to terminate the *Conditional Waiver Order* and LightSquared's ancillary terrestrial component ("ATC") authorization "because pursuant to the *Conditional Waiver Order* LightSquared is prohibited from operating terrestrial facilities."^{15/} Because, as LightSquared acknowledges, it has no authority to operate terrestrial facilities, grant of the Modification Application would be inconsistent with the still-valid *Conditional Waiver Order*.

B. LightSquared Has not Demonstrated Why the FCC Should Abandon the Approach it took in the *Conditional Waiver Order*.

The *Milestone Order* notes that the Commission may decline to address the February 2012 Public Notice because it is based on a proposal that LightSquared no longer wishes to pursue. LightSquared appears to endorse this approach when it says that the Commission should

^{13/} See *Conditional Waiver Order* ¶¶ 24, 39-43 (finding that LightSquared's existing authority did not allow it to provide terrestrial-only services without a waiver and that "LightSquared's services could adversely impact GPS"); Letter from Jeffrey J. Carlisle, Executive Vice President, Regulatory Affairs & Public Policy, LightSquared, to Marlene H. Dortch, Secretary, FCC, SAT-MOD-20101118-00239, at 6-7 (Nov. 18, 2010) (proposing to build a "nationwide network of 40,000 terrestrial base stations").

^{14/} See LightSquared Comments at 29.

^{15/} *LightSquared Subsidiary LLC Request for Relief from Build-Out Conditions*, Order, DA 12-2051, ¶ 14 (rel. Dec. 20, 2012) ("*Milestone Order*").

“focus on forward-looking, constructive solutions” like those in the Modification Application.^{16/} However, even if the Commission abandons consideration of the past LightSquared proposal that lead to the *Conditional Waiver Order* and the related February 2012 Public Notice, the requirements of the *Conditional Waiver Order* remain in place – that no terrestrial operations should be permitted in the mobile satellite service (“MSS”) L-Band spectrum until LightSquared can demonstrate that there will be no harmful interference to GPS. As the Coalition has repeatedly demonstrated, the Commission has an affirmative obligation to protect GPS and the hundreds of millions of users who rely on this critical utility.^{17/} Therefore, even if the Commission considers only the current Modification Application (and not the application that lead to the *Conditional Waiver Order*), it should maintain the condition that there will be no harmful interference to GPS.

C. Interference Issues Relative to Both the Lower L-Band Downlink Spectrum and LightSquared’s Uplink Bands Remain Unresolved.

LightSquared acknowledges that it should not be able to use any part of the L-Band Downlink Spectrum today, pending completion of a proceeding which addresses the circumstances under which it can employ that spectrum.^{18/} As LightSquared recognizes, one of the purposes of that proceeding would be to demonstrate the lack of interference from its operations to GPS.^{19/} That proceeding would presumably do precisely what the *Conditional*

^{16/} See LightSquared Comments at 29.

^{17/} See, e.g., Comments of the Coalition to Save Our GPS, Docket Nos. 11-109 & 10-142, File No. SAT-MOD-20101118-00239, at 27-28 (filed March 16, 2012) (noting that “the Commission expressly committed to proactively protect GPS from harmful interference”); Coalition to Save Our GPS Opposition to LightSquared Petition for Declaratory Ruling, Docket Nos. 11-109 & 10-142, at 12-13 (filed Feb. 27, 2012).

^{18/} See LightSquared Comments at 1-2.

^{19/} See Petition for Rulemaking of LightSquared Subsidiary LLC, RM-11681, at 3 (filed Nov. 2, 2012) (noting that “by holding the rulemaking proposed in this Petition,” the Commission can “change its

Waiver Order required – demonstrate that LightSquared’s proposed use of the L-Band Downlink Spectrum would not cause harmful interference to GPS. It is therefore premature for the Commission to grant the Modification Application before the evaluation that LightSquared itself envisions is complete.

Despite LightSquared’s request to grant its Modification Application now,^{20/} there is no reason for the Commission to approve any modification regarding use of the Lower L-Band Downlink Spectrum while or before the Commission evaluates how LightSquared may use its L-Band Downlink Spectrum, based on the further evaluation that LightSquared acknowledges is required. Granting the Modification Application is the reverse of how the Commission should proceed. LightSquared would suffer no detriment in the interim – it remains authorized for the L-Band Downlink Spectrum and its use of the spectrum for terrestrial operations is simply subject to the *Conditional Waiver Order* or any other pending substitute or subsequent proceeding.

With respect to its use of the Uplink Bands, LightSquared must still demonstrate that there will be no interference to GPS operations. LightSquared suggests that the testing underlying the *Conditional Waiver Order* and related February 2012 Public Notice is now irrelevant.^{21/} Yet, as the Coalition noted in its comments, the evidence developed in the Technical Working Group formed in connection with the *Conditional Waiver Order* and in other studies (including those conducted by the National Space-Based Positioning, Navigation, and Timing Systems Engineering Forum) demonstrated that there would be interference from both

technical rules to provide for an appropriate transition period during which LightSquared could use terrestrially its licensed 1526-36 MHz band in a manner that is compatible with GPS receivers”).

^{20/} See LightSquared Comments at 1-2.

^{21/} See *id.* at 29.

the Lower L-Band Downlink Spectrum and from LightSquared's terrestrial use of the Uplink Bands.^{22/} Therefore, consistent with the *Conditional Waiver Order*, LightSquared cannot be authorized to conduct terrestrial operations until the company demonstrates that it will not cause harmful interference.

LightSquared argues that there should be no impediment to its use of the Uplink Bands because there are already mobile handsets in operation in those bands.^{23/} However, that assertion not only overlooks the concerns noted in the Coalition's comments, but it also ignores the fact that its envisioned terrestrial service will result in the use of a significantly greater number of handsets in the Uplink Bands than currently exists. Moreover, the handsets that will be used in connection with LightSquared's proposed terrestrial service will be different from those in use today in connection with its MSS service. The more widespread and ubiquitous use of those handsets – particularly if they are different from those in operation today and will be used in aggregated clusters – requires additional review by the public and private GPS community. While discussions with members of the GPS industry to address this issue are ongoing, no conclusions have been reached and further evaluation by government and non-government entities is required. No grant of the Modification Application covering the use of the Uplink Bands is appropriate until that assessment is complete.

^{22/} See Coalition Comments at 10-13.

^{23/} See LightSquared Comments at 19-23.

D. LightSquared's Comments Provide no Reasons Why its Proposed Use of the 1675-1680 MHz Band Should be Permitted Yet.

Finally, LightSquared asserts that deploying terrestrial base stations at 1675-1680 MHz is feasible today.^{24/} However, as LightSquared recognizes, the Commission is without authority to simply issue a license to LightSquared to operate in the band today.^{25/} While the current impediments that LightSquared acknowledges prevent it from operating in the 1675-1680 MHz band may be resolved in the future, that is not yet the case. LightSquared has identified a path forward so that it may use that spectrum and the process that LightSquared contemplates should continue. In the interim, grant of the Modification Application to give LightSquared authority to operate in the band is premature.

^{24/} See *id.* at 10-11.

^{25/} See *id.* at 23-27 (suggesting that the Commission has “broad authority” under Section 316 of the Communications Act to grant the relief requested).

III. CONCLUSION

The record makes it clear that it is premature for the Commission to grant LightSquared's Modification Application at this time. Commission action on the Modification Application is subject to issues raised in the *Conditional Waiver Order* and the February 2012 Public Notice. Interference and other concerns remain with respect to LightSquared's proposed operations in the Lower L-Band Downlink Spectrum, the Uplink Bands, and at 1675-1680 MHz. While those concerns may be addressed in due course, the Commission should refrain from granting LightSquared's Modification Application until they are.

Respectfully submitted,

/s/ Joel Jankowsky

Joel Jankowsky
COALITION TO SAVE OUR GPS
1333 New Hampshire Avenue, N.W.
Washington, D.C. 20036-1564
(202) 887-4075

Howard J. Symons
Russell H. Fox
Angela Y. Kung
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
701 Pennsylvania Avenue, N.W.
Suite 900
Washington, DC 20004
(202) 434-7300

Counsel for Trimble Navigation Limited

M. Anne Swanson
Jason E. Rademacher
DOW LOHNES PLLC
1200 New Hampshire Avenue, N.W.
Suite 800
Washington, DC 20036
(202) 776-2534

Counsel for Garmin International, Inc.

Dated: January 11, 2013